IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 14130 of 2007(F)

PETITIONER:

P.UNNIKRISHNAN NAIR,
PRESIDENT, THE PARAPPANANGADI REGIONAL HOUSING
CO-OP. SOCIETY LTD. NO. M. 38,
P.O.PARAPPANANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES (G),
MALAPPURAM.

BY GOVT. PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.12032/07 DTD. 13-4-07**
EXT.P2	**TRUE COPY OF THE COMPLAINT DATED 28-4-07 GIVEN TO THE RESPONDENT.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 14130 OF 2007

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Dated this the 11th day of June, 2007

JUDGMENT

The prayers in the writ petition are:

i) Issue a writ in the nature of mandamus commanding the respondent to furnish the details in Ext.P2 before proceeding further with the enquiry.

ii) Issue a writ in the nature of prohibition restraining the respondent from invoking section 32 of the KCS Act without justifiable grounds, giving notice and hearing as provided under law.

iii) Issue a writ declaring that the inspection and further action contemplated against the Managing Committee of the society is unjust and unlawful and there is no legal justification to exercise the powers under Section 32 of the KCS Act as against the Managing Committee of the petitioner's society.

Case of the petitioner in brief is as follows:

Petitioner is the president of the Parappanangadi

Regional Housing Co-operative Society. The society is the best society in the Malappuram district for the last 17 years continuously and it is the second best society in the state during the year 2005-06. The department audit of the society was over upto 2004 and there are no adverse remarks to its credit so far, it is stated. It is the case of the petitioner that the political masters who are controlling the affairs of the department were unhappy with the managing committee of the society on account of the fact that the delegate of the society in the Apex Federation is the President of the said Federation. Sri.O.P.Moideen is a member in the Board of Directors of the society and he is the delegate in the general body of the Kerala Co-operative Housing Federation. It is stated that there are several litigations to prevent the take over of the administration invoking section 33 of the KCS Act by the Apex Federation. It is stated that attempts were averted. Ext.P1 is the judgment of this court relied on by the petitioner. It is

stated that a team of officers of the department came to the society on 26-04-2007 and inspected the papers without giving any request regarding the papers to be verified. Petitioner moved Ext.P2 complaint. The real apprehension of the petitioner of course is that supercession will be as a fait accompli and it will not be preceded by adherence to the requirements of the statute as contemplated under Section 32 of the Act.

2. I heard the learned Government Pleader also who submits that there can be no dispute that, the proposition that any supercession must by superseded by issuance of show cause and it can be done only in accordance with law.

In such circumstance, all that need to be done is to direct that, in case there is any proposal on the basis of any enquiry to supersede the society of which the petitioner is the president, the respondent shall act strictly in accordance with law as contemplated under Section 32 by giving notice and after affording full opportunity to place objection and

also such materials as they wishes to place. I need not remind the respondent that the act of supercession as contemplated under section 32 appears to be a matter of last resort.

(K.M.JOSEPH, JUDGE)

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